

RESOLUTION NO. 2022-31

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARINA
APPROVING AN AGREEMENT FOR LEGAL SERVICES WITH WELLINGTON LAW OFFICES
AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT

WHEREAS, the Wellington Law Offices has served as Marina's City Attorney since 1975 and has notified the City they will be resigning effective March 1, 2022, and

WHEREAS, the City has continued need for legal services while it is recruiting for a new City Attorney, and the Wellington Law Offices is willing to enter into an agreement to continue providing legal services to the City of Marina on an hourly basis, and

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Marina does hereby:

1. Approve an agreement for Legal Services with Wellington Law Offices; and
2. Authorize the City Manager to execute the agreement; and
3. Authorize the Finance Director to make necessary accounting and budgetary entries, and

PASSED AND ADOPTED by the City Council of the City of Marina at a regular meeting duly held on the 1st of March 2022 by the following vote:

AYES, COUNCIL MEMBERS: Medina Dirksen, Burnett, Berkley, Delgado

NOES, COUNCIL MEMBERS: None

ABSENT, COUNCIL MEMBERS: Biala

ABSTAIN, COUNCIL MEMBERS: None

Bruce C. Delgado, Mayor

ATTEST:

Anita Sharp, Deputy City Clerk

AGREEMENT FOR LEGAL SERVICES

This Agreement is entered into on March 1, 2022, between the WELLINGTON LAW OFFICES (“Attorneys”) and the CITY OF MARINA, a municipal corporation (“City”).

1. Conditions

This Agreement will not take effect, and Attorneys will have no obligation to provide services, until City returns a properly signed and executed copy of this Agreement.

2. Attorney’s Services

Attorneys agree to provide City with consulting, representational and legal services pertaining to local governmental matters, including conferring and consulting with the officers and administrative staff of City, preparing and reviewing legal documents, representation in negotiations and in administrative proceedings, and unless otherwise unavailable attending all meetings as requested by City or otherwise required by law.

3. Fees, Costs, Expenses

City agrees to pay Attorneys the sums billed monthly for time spent by Attorneys in providing the services, including reasonable travel time.

The current hourly rate for Attorneys’ time is Two Hundred Dollars (\$200.00). Attorneys will provide the City with advance written notification of any adjustment in the range of rates. Attorneys bill time in minimum units of one-tenth of an hour.

City agrees to reimburse Attorneys for necessary costs and expenses incurred by Attorneys on behalf of City. Attorneys bill photocopying charges at Fifteen Cents (\$0.15) per page.

Payment by City against monthly billings is due upon receipt of statements, and is considered delinquent if payment is not received within thirty (30) days of the date of the invoice.

4. Professional Liability Insurance

The California Business & Professions Code requires us to inform you whether we maintain errors and omissions insurance coverage applicable to the services to be rendered to you. We hereby confirm that the firm does maintain such insurance coverage.

5. Arbitration of Professional Liability or Other Claims

If a dispute between City and Attorneys arises over fees charged for services, the controversy will be submitted to binding arbitration in accordance with the rules of the California State Bar Fee Arbitration Program, set forth in California Business and Professions Code, sections 6200 through 6206. The arbitrator or arbitration panel shall have the authority to award to the prevailing party attorneys’ fees, costs and interest incurred. Any arbitration award may be served by mail upon either side and personal service shall not be required.

If a dispute arises between City and Attorneys over any other aspect of the attorney-client relationship, including, without limitation, a claim for breach of professional duty, that dispute will also be resolved by arbitration. It is understood that any dispute as to any alleged breach of professional duty (that is, as to whether any legal services rendered under this agreement were allegedly unnecessary, unauthorized, omitted entirely, or were improperly, negligently or incompetently rendered) will be determined by submission to arbitration as provided by California law, and not by a lawsuit or resort to court process except as California law provides for judicial review of arbitration proceedings. **Both parties to this agreement, by entering into it, are giving up their constitutional right to have any such dispute decided in a court of law before a jury, and instead are accepting the use of arbitration.** Each party is to bear its own attorney's fees and costs.

6. File Retention

After services by Attorneys conclude, Attorneys will, upon City's request, deliver any files for pending matters to City, along with any funds or property of City in Attorneys' possession. If City requests a file for any matter, Attorneys will retain a copy of the file at the City's expense. If City does not request a file for any pending matter, Attorneys will retain it for a period of seven (7) years after the matter is closed. If City does not request delivery of the files before the end of the seven- year period, Attorneys will have no further obligation to retain the file and may, at their discretion, destroy it without further notice to City. At any point during the seven- year period, City may request delivery of the file.

7. Assignment

This Agreement is not assignable without the written consent of City.

8. Independent Contractor

It is understood and agreed that Attorneys, while engaged in performing the terms of this Agreement, are an independent contractor and not an employee of City.

9. Authority

The signators to this Agreement represent that they are authorized to execute this Agreement on behalf of their respective parties and to bind their respective parties hereto.

10. Term

This Agreement is effective March 1, 2022, and may be modified by mutual written agreement of the parties. This Agreement shall be terminable by either party with or without cause, upon fifteen (15) days' advance written notice.

11. Modification

No amendment, modification, other alteration of this Agreement shall be valid unless in writing and signed by both of the parties hereto.

12. Entire Agreement

This Agreement contains the entire agreement of the parties hereto, No other agreement, statement or promise made on or before the effective date of this Agreement will be binding on the parties hereto.

WELLINGTON LAW OFFICES

CITY OF MARINA,
A Municipal Corporation

By: _____

Name: Robert R. Wellington

By: _____

Name: Layne Long

Title: City Manager

Date: _____

Date: _____

February 25, 2022

Item No. **8g(2)**

Honorable Mayor and Members
of the Marina City Council

City Council Meeting
of March 1, 2022

CITY COUNCIL CONSIDER ADOPTING RESOLUTION NO. 2022-, APPROVING AN AGREEMENT FOR LEGAL SERVICES WITH WELLINGTON LAW OFFICES; AUTHORIZE THE CITY MANAGER TO EXECUTE THE AGREEMENT AND AUTHORIZE THE FINANCE DIRECTOR TO MAKE NECESSARY ACCOUNTING AND BUDGETARY ENTRIES.

RECOMMENDATION: City Council consider:

1. Adopt Resolution No. 2022-, approving an agreement with Wellington Law Offices to provide legal services to the City of Marina; and
2. Authorize the Finance Director to make necessary accounting and budgetary entries.

BACKGROUND:

In November 2021, the Wellington Law Offices provided notice to the Mayor and City Council that they would be resigning as the City of Marina's City Attorney and Assistant Attorney effective March 1, 2022. Rob Wellington has been serving as Marina's City Attorney since the City incorporated in November 1975.

The City has been reviewing the scope of services for the new City Attorney and is developing an RFP to release and anticipates being able to hire a new City Attorney in the next couple months. In the interim, there is a need for continued legal services and Wellington Law Offices has agreed to continue to provide these needed legal services.

ANALYSIS:

Under the proposed agreement, Wellington Law Offices will provide, consulting, representational and legal services pertaining to local governmental matters, including conferring and consulting with the officers and administrative staff of the City, preparing and reviewing legal documents, representation in negotiations and administrative proceedings, and unless otherwise unavailable, attending all meetings as requested by the City or otherwise required by law. **(EXHIBIT A)**

The agreement is based on a hourly rate of Two Hundred Dollars (\$200.00) per hour for services performed including reasonable travel time and includes reimbursement for necessary costs and expenses incurred by Attorneys on behalf of the City.

FISCAL IMPACT:

The current budget for Fiscal Year 2021/22 and 2022/23 includes funding for city attorney and legal services and no additional budget adjustments are needed.

Layne Long
City Manager
City of Marina